



The dilemma of ISIS captives held by SDF forces (and an analysis of possible solutions)

February 20, 2019

Overview

The SDF campaign against the ISIS enclave on the lower Euphrates Valley is about to come to an end after five months of fighting. **The collapse of the enclave led to the capture of a large number of ISIS fighters by the Kurdish SDF forces.** According to various estimates, **the SDF holds about 1,500 people captive, about 850 of them foreign fighters from more than 40 countries, including Western countries.** In addition, there are **several thousand women and children** in the region under SDF control. The women joined ISIS and/or were married to ISIS operatives.

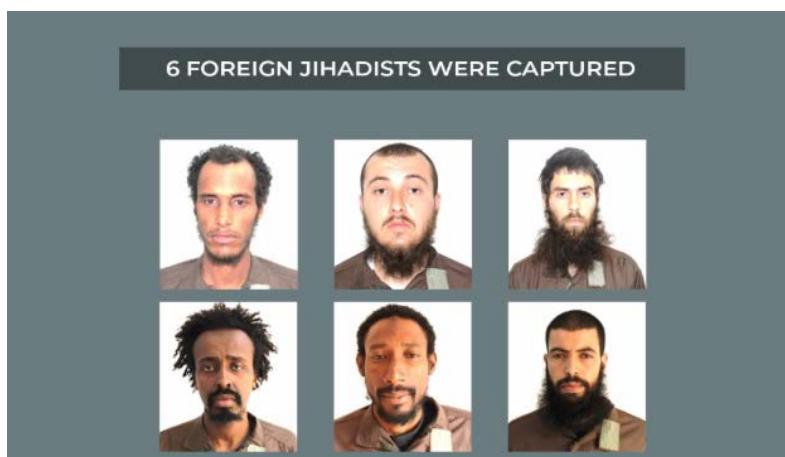
- ▶ **The United States issued a call to return the foreign fighters to their countries of origin, especially Western European countries,** and to undertake a coordinated international effort of law enforcement, intelligence and diplomatic agencies. The American suggestion is problematic for Western Europe, primarily because of the justified **fear that the operatives may return brainwashed with a Salafist-jihadist ideology combined with military experience.** In the future they may join local ISIS supporters and encourage continued terrorist attacks (in 2017-2018 ISIS-inspired attacks were carried out in Western Europe even as ISIS was under heavy military pressure in Iraq and Syria).
- ▶ Therefore, most **Western European countries object to the return of the foreign fighters.** That **includes France, Belgium and Britain,** where ISIS and its supporters carried out terrorist attacks originating in local Muslim communities. **Germany,** on the other hand, says its citizens have, in principle, a fundamental "right to return," even if it is aware that may lead to difficulties. In ITIC assessment, in all probability the **United States** is less influenced by security constraints because of the relatively small number of attacks carried out by ISIS supporters (far lower than in Western Europe).
- ▶ There are, in ITIC assessment, other alternatives, each with its own disadvantages. **The first is to release the prisoners** and allow them to move to remote regions of Iraq and Syria (as was done in the past when ISIS enclaves in Syria collapsed). That can be unilaterally

implemented but may strengthen the military capabilities of ISIS networks in Syria and Iraq, which are expected to continue terrorist attacks. **The second alternative, proposed by the SDF, is to establish an international court and holding facilities in the area under the control of the Kurds** in northeastern Syria. However, that would involve logistic and legal difficulties (for example, the Kurdish autonomy and its courts have no legal authority). **The third alternative is to bring ISIS operatives to trial in Iraqi or Syrian courts**, but that is possible mainly for operatives from those countries and does not solve the problem of the foreign fighters (in addition to which it is doubtful whether the Syrian regime will cooperate with the United States or the international community to solve the problem).

► Each of the alternatives for solving the problem of the captives in general and the foreign fighters in particular requires extensive international and regional cooperation, and given the current political conditions it is doubtful whether that can be achieved. If no comprehensive, generally agreed-upon solution is found, every country will have to deal with the problem separately, according to its own considerations and interests. In any event, in ITIC assessment, in the near future the issue will remain on regional and international agendas as yet another problem created by the Syrian Civil War.

Estimated number of ISIS operatives taken captive

Senior Kurds recently stated that following the recent attack on the ISIS pocket in the lower Euphrates Valley, **the number of operatives taken captive rose to more than 1,500** (Kurdistan 24, February 17, 2019). They are being kept without trial in SDF holding facilities. Some of them were involved in fighting the SDF and in terrorist activities. **More than half of the captives are foreign fighters from dozens of countries who joined the ranks of ISIS.** The captives include Iraqis, Egyptians, Russians, Somalis, Filipinos and fighters from various Asian and Western countries. The Iraqi regime also holds ISIS captives, some of whom have been tried and imprisoned.



The Kurdish fighters published the names and countries of six foreign jihadists who were captured. They came from Russia, Germany, Sweden, the United States, Turkey and Morocco (YPG website, ypgrojava.org, February 2, 2019).

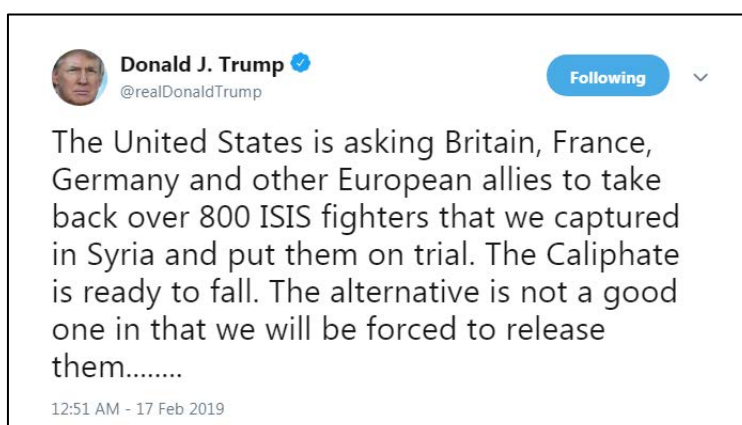
- ▶ Regarding the number of foreign fighters, Commander Sean Robertson, spokesman for the American Department of Defense, said SDF forces were **holding more than 800 ISIS foreign fighters from more than 40 countries** (CNN, February 1, 2019). That is, **the number of foreign fighters is more than half the total number of ISIS operatives in SDF captivity**. Reuters reported that **the American State Department called on various countries to take back 850 ISIS operatives who were taken captive by SDF forces** (Reuters, February 4, 2019).
- ▶ In addition to ISIS operatives, **women and children were also taken captive. Apparently most of the women were married to operatives but some also actively fought in the ranks of ISIS**. Abd al-Karim Omar, a senior figure in the Kurdish region of Syria who deals with foreign relations, said **that 700 women and 1,500 children were currently held displaced persons' camps**. He said that every day dozens of detainees and their families came to the region held by the SDF, so the number was not final (Ibnsiqilli Twitter account, February 19, 2019, quoting reports of France 24 and Reuters). According to an Agence France-Presse item, in recent months about 500 foreign women were transferred to the al-Hawl refugee camp in the heart of the area under Kurdish control (in northeastern Syria). They had been collected by American forces in regions liberated from ISIS (Ynet report based on the Agence France-Presse, February 19, 2019).
- ▶ The **German ministry of the interior reported that a "double-digit number" of men, women and children from Germany** are being held by the Kurdish forces. The ministry estimates that since 2013 about 1,000 people left Germany to fight in the ranks of terrorist organizations in Syria and Iraq. About a third have already returned to Germany. **Some were**

tried and others were sent on rehabilitation plans [to rid them of Salafist-jihadist ideology]. In addition, **270 women and children of German origin** (most of the children under the age of three) **are still in Iraq and Syria** (Deutsche Welle, February 18, 2019).

America's call to return ISIS operatives to their countries of origin

► **General Joseph Votel, commander of the American Central Command**, told a Senate hearing that the return of the foreign fighters to their countries to stand trial was a challenge that had to be met. He said SDF and Iraqi forces had hundreds of foreign fighters in jails or were keeping them in holding facilities without trial. **He said to solve the problem a coordinated international diplomatic effort of law enforcement and intelligence agencies was necessary** (US Senate website, February 5, 2019).

The Senate hearing reflected the current American policy advocating the return of the foreign fighters to their countries of origin, especially in Europe. Trump tweeted the following:



Initial West European reactions to the American call

Generally speaking, the American call was met with negative reactions from Western European countries which had been attacked by ISIS and where there are large Muslim populations from which the ISIS-inspired attackers came. **France, Belgium and Britain** rejected the American call. **Germany**, on the other hand, announced its willingness, in principle, to take back ISIS operatives from Germany despite the problems and difficulties involved. **Canada** also said that Canadians who had joined terrorist organizations abroad had the "right to return."

Negative Western European reactions to the call

► The following were the initial reactions of a number of key Western European countries:

- ◆ **France:** Jihadist operatives from France make up the largest group of European foreign fighters. French government officials expressed concern over their return because French jihadist operatives had carried out the lethal attacks in Paris and Brussels (Ibnsiqilli Twitter account, February 19, 2019, quoting France 24, AP and Reuters). **Nicole Belloubet, the French minister of justice**, told France 24 that "**for the time being we are not changing our policy,**" [and] "**at this stage France is not responding to [Trump's] demands**" (France 24, France 2, February 18, 2019). As to the issue of the women, apparently France has still not made a final decision as to whether to allow women who joined ISIS and their children to return.
- ◆ **Britain:** Britain revoked the citizenship of subjects who joined ISIS so they cannot officially return. The issue was recently tested with the affair of Shamima Begum, 24. In 2015, when she was 19, she left Britain with two of her schoolmates and joined ISIS. She went to al-Raqqa in Syria and married a Dutch Christian who had converted to Islam. She now wants to return to Britain with her son, who was born in a refugee camp in northeastern Syria. Her lawyer tweeted that her family "were very disappointed with the Home Office's intention to have an order made depriving Shamima of her citizenship." He added that they "were considering all legal avenues to challenge the decision" (CNN, February 20, 2019).
- ◆ **Belgium:** Belgium has previously said **it would not make an great effort** to secure the release of 12 citizens imprisoned in Syria and two in Iraq (France 24, February 18, 2019).

Positive Western reactions to the call

- ◆ **Germany:** A spokesman for the German ministry of the interior said that "all German citizens, including those who are suspected of having been involved with the Islamic State, have a fundamental right to be in Germany." The German government added that **Germany was consulting with the United States, Britain and France concerning European citizens** [who joined ISIS in Syria and Iraq] (Reuters, February 18, 2019). The German foreign minister said that German citizens have the right to return to Germany, but that the issue was not as simple as the United States seemed to think. He said the German authorities would need to examine whether the operatives had been involved in fighting for ISIS, and if they had, they would have to be detained

and charged with crimes (Ibnsiqilli Twitter account, February 19, 2019, based on France 24, AP and Reuters).

◆ **Canada: The Canadian government estimates that about 190 "Canadian radicals" are operating in terrorist organizations overseas, especially in Syria and Iraq.** Sixty others have already returned to Canada. In the coming months, the Canadian police expect to see another wave of returnees. According to a memorandum prepared for Ralph Goodale, the Canadian minister of public safety, **Canadians who left the country to carry out terrorist activities have "the right to return."** However, the Canadian police face difficulties regarding investigations of foreign fighters because the police often require evidence of an individual's activity in foreign conflict zones or rely on information provided by partners who are not authorized to make disclosures in court (Global News, a Canadian news site, February 14, 2019; France 24, February 18, 2019).

Alternative solutions

► In ITIC assessment there are alternative solutions to deal with the dilemma of the captives, each with its own disadvantages:

◆ **Alternative A – Bringing to trial and imprisoning the captives in the territory controlled by the Kurds:** That alternative was recently raised by Mustafa Bali, head of the SDF's media center, who suggested establishing an international court and prisons in the area controlled by the Kurds in northeastern Syria (ANF News, a Kurdish website operating in Holland, February 14, 2019). However, the alternative raises a series of problems, including the Kurdish courts' lack of international legal validity, the lack of an appropriate mechanism for trying the captives and the lack of diplomatic relations between the Kurds and the countries from which the foreign fighters came. In addition, it is doubtful whether the Kurds have the logistic and operational ability to keep a large number of ISIS operatives in suitable holding facilities over a long period of time. In addition, **their long-term imprisonment is liable to encourage ISIS, after it has rehabilitated itself, to attack the prisons to release the operatives** (as they did in Iraq after the American invasion).

◆ **Alternative B – Release the captives and transfer them to remote regions of Syria and Iraq:** That was previously done in Syria after the Syrian army took over regions controlled by ISIS. However, it is liable to strengthen ISIS's military capabilities

for **terrorist and guerrilla attacks which are expected to continue with even after the collapse of the enclave in the Euphrates Valley**. For that reason it can be assumed that Iraq and Syria will oppose moving ISIS operatives who fell captive into their territories. However, in a scenario where no other alternative can be put into practice, **the SDF forces may decide to implement the alternative, partially and unilaterally**.

◆ **Alternative C – Bringing to trial and imprisoning ISIS operatives in Iraq and Syria:** That alternative can be used mainly for the many Iraqi operatives captured by the SDF, and **the Iraqi regime may agree to it. The Iraqi prime minister has already expressed agreement in principle**.¹ On the other hand, transferring captive ISIS operatives of Syrian origin to the Syrian regime is less likely. That is because it is doubtful whether the Syrian regime would agree to supporting a solution to the problem without wider political support (and it is highly unlikely that the United States and other Western countries would agree to a close operation with the Syrian regime). In addition, it would be difficult to reach an international and regional agreement to move foreign fighters to Syria and Iraq because of legal and political reasons.

¹ On February 13, 2019, **the Iraqi prime minister, 'Adel Abd al-Mahdi**, said his government would return to Iraq the Iraqi ISIS operatives held by SDF forces. He said that their families could return and they would be settled in [refugee] camps which would be constructed for them (Alhurra, an American news channel in Arabic, February 13, 2019).